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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/583,956

02/14/2008

Peter Larsson

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER

KENDALL, CHUCK O

ART UNIT

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2192

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/583,956	Applicant(s) LARSSON ET AL.	
	Examiner CHUCK O. KENDALL	Art Unit 2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/03/07</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

1. This is in response to Application filed 02/14/08.
2. Claims 1 – 30 have been examined.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 – 4 and 17 – 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim recites the limitation, “downloading of said radio software that not is subject of receiving the software” Examiner cannot the correlation of the downloaded software with the receiving software.

Claim 10 also recites “not was successful” and is vague and indefinite.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 1, 5 – 6, 16, 20 – 21 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN Averbuch 5,896,566.

Regarding claims 1 and 16, method for providing a communication device with radio software from a software download server via a wireless network including a number of access networks, said communication device being arranged to operate in said wireless network and comprising a transceiver for receiving said radio software and storing means comprising at least two radio access technologies for communication with corresponding access networks of said wireless network, comprising the steps of:

initiating a download of radio software of a first radio access technology of said communication devices (2:10 – 23);

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selecting a radio access technology of said communication device for downloading said software (2:30 – 35);

downloading said radio software via the available radio access technology, wherein the radio software designed for the first radio access technology is stored in a memory space of said storing means (2:10 – 35).

Regarding claims 5 and 20, method according to claim 1, wherein the radio software designed for the first radio access technology is stored in a memory space allocated for said first radio access technology (3:25 – 40).

Regarding claims 6 and 21, method according to claim 1, further comprising the step of, at completion of the downloading of the radio software of the first radio access technology, verifying that the downloaded software is operational (5:50 – 55, see acknowledgment).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7 - 11, 13 - 15, 22 - 26 and 28 - 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN Averbuch 5,896,566 in view of Coppinger 20050064857.

Regarding claims 7 and 22, Averbuch doesn't explicitly disclose a method according to claim 6, wherein the step of verifying comprises the step of performing local test procedure in said communication device. Coopinger in an analogous art and similar configuration discloses wherein verification tests are performed on software. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Averbuch and Coppinger because it would enable verifying the software.

Regarding claims 8 and 23, method according to claim 7, wherein the step of performing a test procedure comprises the steps of performing a cyclic redundancy check of the downloaded software;

performing a built-in self-test of the software configured hardware logic of the communication device [0069]; and performing a loop-test of the downloaded software [0069, Coppinger].

Regarding claims 9 and 24, method according to claim 6, wherein the step of verifying comprises the step of if said local test procedure was successful, performing a confirming procedure [0067, see validate].

Regarding claims 10 and 25, method according to claim 9, wherein the step of verifying comprises the step of if said local test procedure not was successful, performing an error handling procedure [0067, see validate].

Regarding claim 11 and 26, method according to claim 9, wherein the step of performing a confirming procedure comprises the steps of:

 sending a test message via said first radio technology to said server[0067];

 if a confirmation message has been received via said first radio technology within a predetermined period of time, determining that the downloading of software was successful[0067]; and

 if a confirmation message not has been received via said first radio technology within a predetermined period of time, performing an error handling procedure [0067].

12. (canceled)

Regarding claims 13 and 28, method according to claim 1, wherein the step of initiating a download of radio software comprises the steps of:

polling said communication device about the current version of software of a radio access technology of said communication device (FIG.5 and all associated text);

checking whether said version of software is up to date with the current version of corresponding software available on said server; and if said version of software is not up to date, starting download procedure according to any one of preceding claims (Averbuch, FIG.5 and all associated text).

Regarding claims 14 and 29, method according to claim 1, wherein said communication device comprises initiating means for initiating a download of radio software of a radio access technology, and wherein the step of initiating a download of radio software comprises the steps of:

sending an indication message comprising information regarding the current version of software of a radio access technology of said communication device from said communication device to said server via said wireless network (4:40 – 50);

checking whether said version of software is up to date with the current version of corresponding software available on said server; and if said current version of software is not up to date, starting a download procedure according to claim 1(4:40 – 50).

Regarding claims 15 and 30, method according to claim 1, wherein the step of initiating a download of radio software comprises the steps of:

at connection of said communication device to an access network, sending an inquiry message from said access network to said server via said network in order to check whether a new version of the software of the radio access technology of said communication device corresponding to said access network is available(4:40 – 50);

checking whether said version of software is up to date with the current version of corresponding software available on said server(4:40 – 50); and

if said current version of software is not up to date, starting a download procedure according to claim 1(4:40 – 50).

27. (canceled)

Correspondence Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Kendall whose telephone number is 571-272-3698. The examiner can normally be reached between Monday and Thursday, at 11:00 am - 4:300pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Chuck O Kendall/

Primary Examiner, Art Unit 2192